

Message Text

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SUBJECT: TIME-READER'S DIGEST TAX CHANGES - STATEMENTS BY
REVENUE MINISTER BASFORD

REF: OTTAWA 823, 3/6/75

OTTAWA 780, 2/4/75

OTTAWA 690, 2/26/75

OTTAWA 644, 2/24,75

FOLLOWING IS TEXT OF ARTICLE ENTITLED, "LEGISLATION
ON TIME, DIGEST POSTPOSED BY CABINET DEBATE", BY
HUGH WINSOR, PUBLISHED TORONTO GLOBE AND MAIL,
MARCH 14.

BEGIN TEXT

LEGISLATION TO END THE SPECIAL TAX STATUS OF
TIME, READER'S DIGEST, AND A NUMBER OF SCIENTIFIC
MAGAZINES HAS BEEN DELAYED BY FURTHER CABINET
DISCUSSIONS.

AS A RESULT, WHEN THE LEGISLATION IS TABLED
IT WILL CLARIFY PLANS ANNOUNCED BY SECRETARY OF
STATE HUGH FAULKNER TO DELETE TWO SECTIONS OF
THE INCOME TAX ACT THAT CONTROL THE TAX
DEDUCTIONS ALLOWED TO ADVERTISERS IN FOREIGN-
CONTROLLED MAGAZINES.

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AT THE SAME TIME, THE REVENUE DEPARTMENT

IS REVIEWING THE MEANING OF THE PROVISION IN THE ACT THAT SAYS A CANADIAN EDITION OF A MAGAZINE CANNOT BE "SUBSTANTIALLY THE SAME" AS AN EDITION PUBLISHED OUTSIDE CANADA.

BECAUSE THE LAW APPLYING TO CANADAIN EDITIONS OF NON-CANADIAN MAGAZINES IS BEING CHANGED, THE REVENUE DEPARTMENT HAS ASKED THE SECRETARY OF STATE'S DEPARTMENT AND THE JUSTICE DEPARTMENT FOR SUGGESTIONS ON HOW THE PHRASE "SUBSTANTIALLY THE SAME" SHOULD BE INTERPRETED, REVENUE MINSTER RONALS BASFORD SAID.

MR. BASFORD HAS BEEN WIDELY QUOTED AS SAYING THAT CANADIAN EDITIONS OF TIME AND READER'S DIGEST WOULD HAVE TO HAVE CONTENTS 80 PERCENT DIFFERENT FROM THAT OF THEIR U.S. PARENT PUBLICATIONS AND MEET THE 75 PERCENT CANADIAN OWNERSHIP REGULATIONS TO RETAIN THEIR CURRENT TAX STATUS AS CANADIAN MAGAZINES.

BUT YESTERDAY HE SAID THESE COMMENTS HAD BEEN MISINTERPRETED. HE HAD BEEN DESCRIBINH PAST POLICY IN THE REVENUE DEPARTMENT, PRIOR TO HIS APPOINTMENT AS MINISTER, HE SAID, AND THE DEPARTMENT HAS NOT BEEN ASKED TO MAKE A RULING ON A REVAMPED TIME OR READER'S DIGEST.

"NOR HAVE I ANY INTENTION OF MAKING A PERSONAL RULING ON SPECIFIC CASES--THAT IS NOT MY IDEA OF THE WAY TO ADMINISTER A TAX ACT."

ON THE FEW OCCASIONS WHERE THE ISUEE HAS ARISEN, MR. BASFORD SAID, THE DEPARTMENT HAS USED THE FOLLOWING GUIDELINES: A MAGAZINE HAS BEEN JUDGED BY THE DEPARTMENT TO BE CANADIAN FOR TAX PURPOSES AUTOMATICALLY IF IT IS 80 PERCENT DIFFERENCE IN CONTENT FROM EDITIONS PUBLISHED IN OTHER COUNTRIES.

IF ONLY 70 PERCENT OR LESS OF A MAGAZINE'S CONTENTS WERE DIFFERENT, THE MAGAXINE HAS BEEN CONSIDERED FOREIGN AND ADVERTISING PLACED IN IT HAS NOT BEEN DEDUCTIBEL BY ADVERTISING FOR INCOME TAX PURPOSES.

MAGAZINES FALLING BETWEEN THE 80 AND 60
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PERCENT MARKS HAVE BEEN CONSIDERED INDIVIDUALLY BY THE TAX-RULING DEPARTMENT. TIME, READER'S DIGEST, FOUR NEWSPAPERS AND THREE SCIENTIFIC OR CULTURAL MAGAZINES HAVE BEEN EXEMPT FROM THE CONTENT TESTS, BECAUSE OF A CLAUSE INSERTED IN THE LEGISLATION AT THE INSISTENCE OF THE U.S. GOVERNMENT WHEN THE LEGISLATION WAS PASSED IN 1965.

THE CONTENT CRITERIA SHOULD ONLY BE CONSIDERED AS "RULE-OF-THUMB GUIDELINES," MR. BASFORD SAID, BECAUSE THEY HAVE NEVER BEEN DIRECTLY TESTED IN COURT. ONE PUBLISHER HAS RECEIVED AN ADVANCE RULING FROM THE DEPARTMENT USING THE GUIDELINES, BUT MR. BASFORD SAID HE IS PREVENTED BY THE INCOME TAX LEGISLATION FROM REVEALING THE OUTCOME OF THE RULING.

USE OF THE CONTENT GUIDELINES "HAS BEEN THE PAST PRACTICE, BUT IT IS FAIR TO SAY THAT IN THE LIGHT OF THE PRESENT DEVELOPMENTS WE ARE REVIEWING IT."

MR. BASFORD STRESSED THAT HIS DEPARTMENT HAS NO INTEREST IN THE NATIONALITY OR OTHER ASPECTS OF THE CONTENT OF A MAGAZINE SEEKING CANADIAN STATUS UNDER SECTION 19 OF THE INCOME TAX ACT, BUT ONLY IN THE DEGREE TO WHICH THE CONTENT IS OR IS NOT "SUBSTANTIALLY THE SAME" AS THE CONTENT OF EDITIONS PUBLISHED OUTSIDE CANADA.

THE ONLY CASE IN THE FEDERAL COURT TOUCHING ON THIS SECTION OF THE INCOME TAX ACT DEALT WITH A PUBLICATION CALLED MEDICAL ASPECTS OF HUMAN SEXUALITY, WHICH SOUGHT AND EVENTUALLY RECEIVED CANADIAN TAX STATUS UNDER THE PEORISION (SIC) PROVISION? ALLOWING MAGAZINES "THE PRINCIPAL FUNCTION OF WHICH IS THE ENCOURAGEMENT, PROMOTION OR DEVELOPMENT OF SCHOLARSHIP."

ALTHOUGH THE CASE WAS FINALLY DECIDED ON THE BASIS OF WHETHER THE PUBLICATION WAS PROMOTING SCHOLARSHIP, MR. JUSTICE NOEL SAID IN PASSING THAT IF THE SCHOLARSHIP ARGUMENT WERE NOT INVOLVED HE WOULD HAVE RULED THE MAGAZINE OUT UNCLASSIFIED

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BECAUSE 70 PERCENT OF ITS CONTENT WAS THE SAME AS THAT OF THE U.S. PUBLICATION OF THE SAME NAME.

MR. FAULKNER HAS ALSO REFERRED ON SEVERAL OCCASIONS TO 60 PERCENT CANADIAN CONTENT BUT MR. BASFORD REFUSED TO CONFIRM THE FIGURE OR EVEN TO SAY THAT ANY PARTICULAR FIGURE WOULD BE USED IN FUTURE RULINGS.

"AFTER THE LEGISLATION IS PASSED, ANYONE IS WELCOME TO COME TO US FOR A RULING AND, IF THEY DON'T LIKE IT, TAKE US TO COURT." HE SAID.

THE CABINET HAS BEEN MOVING CAUTIOUSLY ON THE ISSUE BECAUSE OF ADVERSE REACTION TO THE PROPOSAL TO ELIMINATE THE SPECIAL FOR (SIC)

STATUS OF TIME AND READER'S DIGEST. END TEXT

COMMENT. THE MINISTER'S LEGISLATIVE ASSISTANT HAS TOLD THE TCO THAT WINSOR'S ARTICLE IS AN ACCURATE RENDITION OF BASFORD'S VIEWS. HOWEVER, SHE NOTED THAT AN INFERENCE MIGHT BE DRAWN FROM THE SECOND PARAGRAPH (BEGINNING "AS A RESULT ...") THAT THE LEGISLATION WHEN INTRODUCED MAY BE CHANGED FROM WHAT FAULKNER ANNOUNCED. SUCH AS INFERENCE WOULD BE IMPROPER. ALSO, SHE ADVISED THAT THERE IS NO SPECIFIC TARGET DATE FOR THE INTRODUCTION OF THE LEGISLATION, ONLY THAT IT WILL BE "IN THE NEAR FUTURE".

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